

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA ex rel,
Drew Edmondson, et al.,

Plaintiff,

vs.

TYSON FOODS, INC., et. al.,

Defendants and Third Party Plaintiffs,

v.

CITY OF TAHLEQUAH, et al.,

Third Party Defendants.

No. 05-CV-0329-JOE-SAJ

F I L E D

APR 13 2006

Phil Lombardi, Clerk
U.S. DISTRICT COURT

**ANSWER OF THIRD PARTY DEFEDANT,
ILLINOIS RIVER RANCH PROPERTY OWNERS ASSOCIATION
TO THIRD PARTY COMPLAINT**

Comes now Illinois River Ranch Property Owners Association of Proctor, Adair County, Oklahoma, and for it's Answer to the Third Party Complaint of Tyson Foods, Inc., Tyson Poultry, Inc. Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's, Inc., George's Farms, Inc., and Willow Brook Foods, Inc., (collectively referred to hereinafter as Third Party Plaintiffs) alleges and states:

I. BACKGROUND

1. Third Party Defendant, Illinois River Ranch Property Owners Association, (hereinafter referred to as "IRRPOA") alleges and states that it

is without sufficient knowledge or information with which to admit the allegations contained in the Third Party Complaint paragraphs 1 through 9, and therefore denies the same and demands strict proof thereof.

II. PARTIES

2. Third Party Defendant IRRPOA does not have sufficient knowledge or information with which to admit the allegations contained in the Third Party Complaint, paragraphs 10 through 18, and therefore denies the same and demands strict proof thereof.

III. THIRD PARTY DEFENDANTS

3. Third Party Defendant IRRPOA is without sufficient knowledge or information to admit the allegations of Third Party Complaint paragraphs 19 through 170, except paragraph 55, and therefore denies all such allegations and demands strict proof thereof. That as to paragraph 55 Third Party Defendant IRRPOA admits it is a non-profit corporation of Oklahoma but denies that it operates a private sewage system; to the contrary, Third Party Defendant does not own, manage, control or participate in the release of phosphorus or other constituents into the IWR by virtue of an alleged sewage system and demands strict proof thereof.

IV. JURISDICTION AND VENUE

4. Third Party Defendant IRRPOA denies jurisdiction and venue. Specifically, jurisdiction and venue, if any, lies within the United States District Court for the Eastern District of Oklahoma. Specifically, it is further denied that Third Party Defendant has engaged in any activities within the jurisdiction of the United States District Court for the Northern District of Oklahoma for which it would be liable.

V. STATEMENTS OF FACT

A. The Underlying Lawsuit

5. Third Party Defendant IRRPOA is without sufficient knowledge or information to admit to the allegations of the Third Party Complaint under paragraphs 174 through 195 and therefore denies each and every allegation and demands strict proof thereof.

B. General Allegations Regarding Third Party Defendants

6. Third Party Defendant IRRPOA specifically denies the allegations of the Third Party Complaint paragraphs 196 through 221, inclusive, and demands strict proof thereof.

AFFIRMATIVE DEFENSES

7. Third Party Defendant for affirmative defenses alleges, to-wit:
- a. failure to state claim upon which relief can be granted;
 - b. lack of standing;
 - c. legal and equitable estoppel;

- d. lack of venue; and
- e. lack of causation.

WHEREFORE, Illinois River Ranch Property Owners Association prays that the Third Party Plaintiffs, Tyson Foods, Inc., Tyson Poultry, Inc. Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's, Inc., George's Farms, Inc., and Willow Brook Foods, Inc. take nothing by their Third Party Complaint and that this Third Party Defendant be discharged with his costs including a reasonable attorney fee, and such other relief as may be just and equitable.

Respectfully submitted,

ILLINOIS RIVER RANCH PROPERTY
OWNERS ASSOCIATION, Third Party
Defendant

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CERTIFICATE OF MAILING

I hereby certify that on the 11th day of April, 2006, I mailed a true and correct copy of the above and foregoing instrument to the following with postage thereon fully prepaid, to-wit:

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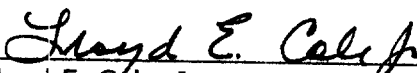
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